

IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF MONTANA
HELENA DIVISION

FILED

MAR 13 2017

Clerk, U.S. District Court
District Of Montana
Missoula

JACOB ALLEN WING,

Plaintiff,

vs.

LEROY KIRKEGARD, et al.,

Defendants.

CV 15-0082-H-DLC-JTJ

ORDER

United States Magistrate Judge John T. Johnston entered findings and recommendations in this case on January 11, 2017, recommending that Plaintiff Jacob Allen Wing's ("Wing") complaint be dismissed with prejudice. Wing did not object to the findings and recommendations, and so has waived the right to de novo review thereof. 28 U.S.C. § 636(b)(1)(C). This Court reviews for clear error those findings and recommendations to which no party objects. *See McDonnell Douglas Corp. v. Commodore Bus. Mach., Inc.*, 656 F.2d 1309, 1313 (9th Cir. 1981); *Thomas v. Arn*, 474 U.S. 140, 149 (1985). Clear error exists if the Court is left with a "definite and firm conviction that a mistake has been committed." *United States v. Syrax*, 235 F.3d 422, 427 (9th Cir. 2000) (citations omitted).

Having reviewed the findings and recommendations, the Court finds no

clear error in Judge Johnston's conclusion. Wing has refused to comply with Court orders, refused to participate in discovery, and failed to respond to the Defendant's motion for summary judgment. Judge Johnston is correct that Wing has been warned about the consequences of not responding and the Court has given him ample time to do so.

Accordingly, IT IS ORDERED that Judge Johnston's Findings and Recommendations (Doc. 18) are ADOPTED IN FULL. This case is DISMISSED. The Clerk of Court shall CLOSE this matter and enter judgment pursuant to Rule 58 of the Federal Rules of Civil Procedure.

DATED this 13th day of March, 2017.



Dana L. Christensen
Dana L. Christensen, Chief Judge
United States District Court